



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220726-0164; RTID 0648-XB952]

Fisheries of the Northeastern United States; Mid-Atlantic Blueline Tilefish Fishery; 2022 and Projected 2023 and 2024 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes specifications for the 2022 blueline tilefish fishery north of the North Carolina/Virginia border and projected specifications for 2023 and 2024. The proposed action is necessary to establish allowable harvest levels and other management measures to prevent overfishing while allowing optimum yield, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Tilefish Fishery Management Plan. It is also intended to inform the public of these proposed specifications for the 2022 fishing year and projected specifications for 2023 and 2024.

DATES: Comments must be received on [*insert date 15 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0071, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2022-0071 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the Supplemental Information Report (SIR) prepared for this action, and other supporting documents for these proposed specifications, are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. These documents are also accessible via the Internet at <http://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, (978) 281-9225.

SUPPLEMENTARY INFORMATION:

Background

The blueline tilefish fishery north of the North Carolina/Virginia border is managed by the Mid-Atlantic Fishery Management Council under the Tilefish Fishery Management Plan (FMP), which outlines the Council's process for establishing annual specifications. Blueline tilefish south of the North Carolina/Virginia border are managed by the South Atlantic Fishery Management Council under the Snapper Grouper FMP.

The Tilefish FMP requires the Mid-Atlantic Council to recommend acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and other management measures for the commercial and recreational sectors of the fishery, for up to three years at a time. The Council's Scientific and Statistical Committee (SSC)

provides an ABC recommendation to the Council to derive these catch limits. The Council makes recommendations to NMFS that cannot exceed the recommendation of its SSC. The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. We are responsible for reviewing these recommendations to ensure that they achieve the FMP objectives and are consistent with all applicable laws. Following review, NMFS publishes the final specifications in the **Federal Register**.

In 2017, a benchmark assessment of the blueline tilefish population along the entire East Coast was conducted through the Southeast Data, Assessment, and Review process (SEDAR 50). Due to data limitations, the coast-wide population was modeled separately north and south of Cape Hatteras, NC. To assist in developing a recommendation for acceptable biological catch (ABC), the Mid- and South Atlantic Councils' Scientific and Statistical Committees (SSC), as well as staff from the Northeast and Southeast Fisheries Science Centers, formed a joint subcommittee to examine available information for the region north of Cape Hatteras, and to develop separate catch advice for each Councils' jurisdiction.

At its March 2018 meeting, the Mid-Atlantic SSC reviewed the output from the SEDAR 50 benchmark stock assessment as well as additional work using the Data-Limited Methods Toolkit (DLMTool) and derived an ABC recommendation using the Mid-Atlantic Council's risk policy. The resulting ABC was 179,500 lb (81.4 mt) for 2019-2021 for the region north of Cape Hatteras. The SSC then followed the recommendation of the Joint Mid- and South Atlantic Blueline Tilefish Subcommittee to distribute 56 percent of that ABC to the Mid-Atlantic Council (north of the VA/NC border) and 44 percent to the South Atlantic Council. This percentage breakdown is based on the catch distribution from the 2017 Pilot Blueline Tilefish Longline Survey.

At its March 2021 meeting, the Mid-Atlantic SSC used the 2018 approach to recommend a status quo ABC of 100,520 lb (45.6 mt) for the 2022-2024 fishing years for the region north of

Cape Hatteras. The SSC made this recommendation under consideration of recent fishery performance, lack of an updated assessment, the need to synchronize the Mid-Atlantic specifications cycle with a SEDAR assessment scheduled for 2024/2025, and the high degree of uncertainty within the recreational sector. A summary of the Council's recommended specifications is shown below in Table 1.

Proposed Specifications

The Council's recommendations are consistent with the SSC's recommended ABC.

Table 1 -- Proposed and Projected Blueline Tilefish Specifications

	Proposed 2022	Projected 2023-2024
ABC – North of NC/VA line	100,520 lb (45.6 mt)	100,520 lb (45.6 mt)
Recreational ACL / ACT	73,380 (33.3 mt)	73,380 (33.3 mt)
Commercial ACL / ACT	27,140 lb (12.3 mt)	27,140 lb (12.3 mt)
Recreational TAL	71,912 lb (32.6 mt)	71,912 lb (32.6 mt)
Commercial TAL	26,869 lb (12.2 mt)	26,869 lb (12.2 mt)

There were no other recommended changes to commercial or recreational management measures. The 2022 fishing year began on January 1, 2022, and the fishery is operating under a rollover provision.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tilefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

For Regulatory Flexibility Act purposes, NMFS has established a size standard for small businesses, including their affiliated operations, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as small if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11.0 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the three years from 2018 through 2020. Data was used from 2018 to 2020, not 2021, because 2020 is the most recent full year of ownership data available. The Small Business Administration has established size standards for all other major industry sectors in the U.S., including defining for-hire fishing firms (NAICS code 487210) as small when their receipts are equal to or less than \$8 million.

The measures proposed in this action apply to vessels that hold a federal permit for bluefin tilefish. Some entities own multiple vessels with tilefish permits. The most recent ownership data indicates that 1,096 business entities hold at least one permit that the proposed action potentially regulates. All 1,096 business entities identified could be directly regulated by this proposed action. Of these, 1,096 entities are commercial entities. Based on 2018-2020 revenues, 1,087 of the commercial entities are classified as small businesses and 9 are classified as large businesses. All 222 for-hire entities are categorized as small businesses.

The specifications are not proposed to change, so there should be no negative impacts on these small businesses compared to recent operations, and this action will not have a significant economic impact on a substantial number of small entities.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 28, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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